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House Bill _____
By _____

Senate No. SB0962
By Haynes

AN ACT to amend Tennessee Code Annotated, Title 3, Chapter 6,
relative to lobbying.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 3-6-102, is amended by deleting
items (5), (6), (7), (8), (10), (11), (12), (13) and (16) and by substituting instead the following:

(5) "Compensation" means:

(A) An advance, conveyance, forgiveness of indebtedness, deposit,
distribution, loan, payment, gift, pledge or transfer of money or anything of value,
including reimbursement of travel, food or lodging costs; or

(B) A contract, agreement, promise or other obligation for an advance,
conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift,
pledge or transfer of money or anything of value, including reimbursement of
travel, food or lodging costs, for services rendered or to be rendered.

(7) "Expenditure" means:

(A) A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose;

(B) A payment to a lobbyist for salary, fee, commission, compensation for expenses, or other purpose by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(C) A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(D) A payment that directly benefits an executive, legislative or public official or a member of the official's immediate family;

(E) A payment, including compensation, payment or reimbursement for the services, times or expenses of an employee for or in connection with direct communication with an executive, legislative or public official made at the direction of the employee's employer;

(F) A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive, legislative or public official; or

(G) A payment or reimbursement for food, beverages, travel, lodging, entertainment or sporting activities.

(8) "Gift" means anything of value to the extent that consideration of equal or greater value is not received, including a rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive, legislative or public official.

(12) "Lobbying" means:

(A) Influencing or attempting to influence legislative or executive action through oral or written communication; or

(B) Solicitation of others to influence legislative or executive action; or

(C) Paying or promising to pay anything of value directly or indirectly related to legislative or executive action.

(13) "Lobbyist" means:

(A) An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

(B) An individual who represents a legislative or public official or public employee, or who represents a person, organization, association or other group, for the purpose of lobbying; or

(C) A sole proprietor, owner, part owner or shareholder in a business who has a pecuniary interest in legislative or executive action, who engages in lobbying activities.

SECTION 2. Tennessee Code Annotated, Section 3-6-102, is amended by adding the following language as new, appropriately designated subdivisions:

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(A) "Anything of value" means:

(i) A pecuniary item, including money, or a bank bill or note;

(ii) A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;

(iii) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money;

(iv) A stock, bond, note or other investment interest in an entity;

- (v) A receipt given for the payment of money or other property;
 - (vi) A right in action;
 - (vii) A gift, tangible good, chattel or an interest in a gift, tangible good or chattel;
 - (viii) A loan or forgiveness of indebtedness;
 - (ix) A work of art, antique or collectible;
 - (x) An automobile or other means of personal transportation;
 - (xi) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
 - (xii) An honorarium or compensation for services;
 - (xiii) A rebate or discount in the price of anything of value, unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive, legislative or public official or public employee, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;
 - (xiv) A promise or offer of employment;
 - (xv) Any other thing of value that is pecuniary or compensatory in value to a person, except as otherwise provided in subitem (B) of this subdivision; or
 - (xvi) A payment that directly benefits an executive, legislative or public official or public employee or a member of that person's immediate family.
- (B) "Anything of value" does not mean:

(i) Informational material such as books, reports, pamphlets, calendars or periodicals informing an executive, legislative or public official or public employee of her or his official duties;

(ii) A certificate, plaque or other commemorative item which has little pecuniary value;

(iii) Food and beverages for immediate consumption provided by a lobbyist up to a value of ten dollars (\$10.00) in the aggregate during any calendar year;

(iv) Campaign contributions reported in accordance with Tennessee Code Annotated, Title 2, Chapter 10.

(v) Any gift or expenditure given or made by a lobbyist to any person, or spouse of such person, who is a member of the lobbyist's immediate family or a relative, including spouse of such relative, within the third degree of consanguinity.

() "Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by a state or local governmental entity of a rule, regulation, order, decision, determination or other quasi-legislative action or proceeding.

() "Executive agency" means:

(A) An agency, board, commission, governing authority or other body in the executive branch of state or local government; or

(B) An independent body of state or local government that is not a part of the legislative or judicial branch, but which includes county boards of supervisors.

() "Executive official" means:

(A) A member or employee of a state agency, board, commission, governing authority or other body in the executive branch of state or local government; or

(B) A public official or public employee, or any employee of such person, of state or local government who takes an executive action.

() "Legislative action" means:

(A) Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of a bill, resolution, amendment, motion, report, nomination, appointment or other matter by the Tennessee General Assembly or a member or employee of the legislature acting or purporting to act in an official capacity;

(B) Action by the governor in approving or vetoing a bill or other action of the legislature;

(C) Action by the legislature in:

(i) overriding or sustaining a veto by the governor; or

(ii) considering, confirming or rejecting an executive appointment of the governor.

() "Legislative official" means:

(A) A member or member-elect of the legislature;

(B) A member of a commission or other entity established by and responsible to either or both houses of the legislature;

(C) A staff member, officer or employee to a member or member-elect of the legislature, to a member of a commission or other entity established by and responsible to either or both houses of the legislature, or to the legislature or any house, committee or office thereof.

() "Lobbyist's client" means an individual, group, association, corporation or entity, which enters into a contract with a lobbyist to represent such individual, group, association, corporation or entity to influence or attempt to influence legislative or executive action.

() "Local" means all entities of government at the county, county-district, multi-county district, municipal or school district level.

() "Public employee" means an individual appointed to a position, including a position created by statute, whether compensated or not, in state or local government and includes any employee of the public employee. The term includes a member of the board of trustees, board of regents, chancellor, vice-chancellor or the equivalent thereof, in the University of Tennessee system or the state university and community college system, and a president of a state college or university.

() "Public official" means an individual elected or appointed to a state or local office, commission, or agency, or an individual who is appointed to fill a vacancy in such office, commission, or agency.

() "Value" means the retail cost or fair market worth of an item or items, whichever is greater.

SECTION 3. Tennessee Code Annotated, Section 3-6-104(a)(1), is amended by adding the language ", except as provided in subsections (d) and (e) of this section" at the end of the subdivision.

Section 3-6-104, is further amended by deleting subdivisions (d)(2) and (d)(3), and by substituting instead the following language:

(2) An individual who:

- (A) Represents or purports to represent only the individual;
- (B) Receives no compensation or anything of value for lobbying; and
- (C) Has no pecuniary interest in the legislative or executive action.

(3) An individual lobbying in his or her own interest, or his or her own business interest.

(4) An individual lobbying on behalf of his or her employer's business interest where such lobbying is not a primary or regular function of his or her employment position.

(5) An individual lobbying on behalf of an association of which he or she is a member, where such lobbying is not a primary or regular function of his or her position in the association.

(6) An individual who is a shareholder, owner or part owner of a business who lobbies on behalf of such business, where such individual is not an employee of the business; provided that if such individual is a lobbyist who is required to register for other purposes under this chapter, this provision does not apply to such individual.

(7) An individual who:

(A) Limits lobbying solely to formal testimony before a public meeting of a legislative body or an executive agency, or a committee, division or department thereof; and

(B) Registers the appearance in the records of the public body, if such records are kept.

(8) An individual who is a licensed attorney representing a client by:

(A) Drafting bills, preparing arguments thereon, and advising the client or rendering opinions as to the construction and effect of proposed or pending legislation, where such services are usual and customary professional legal services which are not otherwise connected with legislative action; or

(B) Providing information, on behalf of the client, to an executive or public official, a public employee, or an agency, board, commission, governing authority or other body of state or local government where such services are usual and

customary professional legal services including or related to a particular nonlegislative matter, case or controversy.

(9) News media and employees of the news media whose activity is limited solely to the publication or broadcast of news, editorial comments, or paid advertisements that attempt to influence legislative or executive action. For the purposes of this section, "news media" shall be construed to be bona fide radio and television stations, newspapers, journals or magazines, or bona fide news bureaus or associations which in turn furnish information solely to bona fide radio or television stations, newspapers, journals or magazines.

(10) An individual who engages in lobbying activities exclusively on behalf of a religious organization which qualifies as a tax-exempt organization under the Internal Revenue Code.

Section 3-6-104, is further amended by deleting subsection (e) in its entirety, and by substituting instead the following language:

(e) The exceptions for individuals identified in subdivisions (d)(2) through (d)(10) of this section are applicable only where any such individual does not pay, promise to pay, offer to pay or cause to be paid to public officials, legislative officials, or public employees anything of value or things of value aggregating in value more than two hundred dollars (\$200) in any calendar year.

SECTION 4. Tennessee Code Annotated, Section 3-6-106, is amended by deleting in their entirety subdivisions (b)(2) through (b)(6).

Section 3-6-106, is further amended by adding the following language as new, appropriately designated subsections:

(e) Except as otherwise provided in Section 3-6-104(d), a lobbyist shall file with the registry of election finance a separate report for each lobbyist's client. The report shall specifically list all payments received from the lobbyist's client and all expenditures that

were initiated or paid by the lobbyist on behalf of each lobbyist's client during each reporting period required herein.

(f) The report must list expenditures for the purpose of lobbying according to the following categories:

(1) A payment to the lobbyist for salary, fee, compensation for expenses, or other purpose by the person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(2) A payment for those portions of office rent, utilities, supplies and compensation of support personnel attributable to lobbying activities;

(3) A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(4) A payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist;

(5) A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist;

(6) A payment or reimbursement for food, beverages, travel, lodging, entertainment or sporting activities;

(7) A purchase, payment, distribution, loan, or forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose.

(g) For each executive, legislative or public official or public employee who was paid, given or promised to be paid anything of value in full or in part from the lobbyist, the report must also include:

(A) The name of the executive, legislative or public official or employee who was paid, given or promised anything of value;

(B) A description and the monetary value of anything of value paid, given or promised to such official or employee, with sufficient detail so that the nature of the transfer is clear;

(C) The place and date anything of value was paid, given or promised; and

(D) The name of the person who paid, gave or promised to pay anything of value.

(h) Each expenditure for the purpose of lobbying must be reported in accordance with the category of the expenditure required in this section and with any additional categories as may be required by rule or regulation of the registry of election of finance.

(i) A report of expenditures must be filed with the registry of election finance no later than July 30, of each year. The report shall contain information on all expenditures paid or initiated by the lobbyist on behalf of each lobbyist's client during the twelve (12) calendar months including and preceding June 30 of each year, and it shall include a cumulative total for the calendar year of all reportable categories.

(j)

(1) If the entire legislature and all statewide elected officials are individually invited to a single function or if all elected members of a local governmental entity are individually invited to a single function in the county where such local governmental entity is located, and the function is sponsored by a lobbyist on behalf of one (1) or more lobbyists' clients and is to begin and end within one (1) day, then it shall not be necessary to report the costs related to food and

beverages offered for immediate consumption as required in subsection (g) of this section, so long as food and beverages provided at such functions are offered equally to all invitees; however, in all such cases, the amount expended for such functions shall be reported in accordance with the provisions of this subsection.

(2) The report of the expenditure connected with a single function as described in subdivision (1) of this subsection shall be made by the lobbyist and shall include the following:

(A) The total amount of money expended for the function, reception or meal;

(B) The total number of persons in attendance at the function, reception or meal;

(C) The total number of legislators in attendance at the function, reception or meal.

(k) A lobbyist shall maintain contemporaneous records of all expenditures reportable under this chapter and shall retain such records for a period of two (2) years.

SECTION 5. Tennessee Code Annotated, Title 3, Chapter 6, Part 1 is amended by adding the following language as a new, appropriately designated section:

(a) Except as otherwise provided in Section 3-6-104(d) and subsection (g) of this section, the person acting for a lobbyist's client in entering into a contract with a lobbyist to represent such lobbyist's client shall file a report of expenditures with the registry of election finance. The report must contain information on all expenditures paid by the lobbyist's client during the preceding twelve (12) calendar months. Provided, however, this section shall in no way be construed to require individual members of such lobbyist's client to individually file a lobbyist's client report. Such individuals shall, however, be required to file a report in accordance with §3-6-104(d) and (e).

(b) The report must list expenditures for the purpose of lobbying according to the following categories:

(1) A payment to the lobbyist for salary, fee, compensation for expenses, or other purpose by the person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

(2) A payment for those portions of office rent, utilities, supplies and compensation of support personnel attributable to lobbying activities;

(3) A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(4) A payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist's client;

(5) A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive, legislative or public official or public employee, where such communication is made at the request, suggestion or direction of the lobbyist's client;

(6) A payment or reimbursement for food, beverages, travel, lodging, entertainment or sporting activities;

(7) A purchase, payment, distribution, loan, or forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose.

(c) For each executive, legislative or public official or public employee who was paid, given or promised to be paid anything of value in full or in part from the lobbyist's client, the report must also include:

(1) The name of the executive, legislative or public official or public employee who was paid, given or promised anything of value;

(2) A description and the monetary value of anything of value paid, given or promised to such official or employee, with sufficient detail so that the nature of the transfer is clear;

(3) The place and date anything of value was paid, given or promised; and

(4) The name of the person who paid, gave or promised to pay anything of value.

(d) Each expenditure for the purpose of lobbying must be reported in accordance with the category of the expenditure required in this section and with any additional categories as may be required by rule or regulation of the registry of election of finance.

(e) A report of expenditures must be filed with the registry of election finance no later than July 30, of each year and shall include a cumulative total for the calendar year for all reportable categories.

(f) A lobbyist's client shall maintain contemporaneous records of all expenditures reportable under Chapter 6 of this Title, and shall retain such records for a period of two (2) years.

(g) If the state of Tennessee is a lobbyist's client, the state of Tennessee shall be exempt from filing an annual report.

(h)

(1) If the entire legislature and all statewide elected officials are individually invited to a single function, or if all elected members of a local governmental entity are individually invited to a single function in the county where such local

governmental entity is located, and the function is sponsored by a lobbyist's client or a lobbyist on behalf of such client and is to begin and end within one (1) day, then it shall not be necessary to report the costs related to food and beverages offered for immediate consumption as required in subsection (c) of this section, so long as food and beverages provided at such functions are offered equally to all invitees; however, in all such cases, the amount expended for such functions shall be reported in accordance with the provisions of this subsection.

(2) The report of the expenditure connected with a single function as described in subdivision (1) of this subsection shall be made by the lobbyist's client and shall include the following:

(A) The total amount of money expended for the function, reception or meal;

(B) The total number of persons in attendance at the function, reception or meal; and

(C) The estimated total number of public officials in attendance at the function, reception or meal.

SECTION 6. Tennessee Code Annotated, Section 3-6-113, is amended by deleting the section in its entirety, and by substituting instead the following language:

The privilege tax on lobbyists imposed by Tennessee Code Annotated, Title 67, Chapter 4, Part 17 shall not be levied on any individual who is a lobbyist within the meaning of this chapter but who is not required to register and report under this chapter.

SECTION 7. Tennessee Code Annotated, Section 3-6-112, is amended by deleting subsections (a) and (c) in their entirety.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect January 1, 1996, the public welfare requiring it.